

Notice of Allowability

Application No.

09/768,361

Examiner

John B. Strege

Applicant(s)

KITAGAWA ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 5/18/05.
2. ☒ The allowed claim(s) is/are 1-4 and 11-21.
3. ☒ The drawings filed on 25 January 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mehdi D. Sheikerz Reg. No. 41,307 on 8/10/05.

IN THE CLAIMS:

Cancel **claims 5-10**.

In **claim 17** on line 2 replace "systemaccording" with --system according--.

In **claim 18** on line 8 replace "group; and" with --group for evaluating influence of variations in the capturing environments of the cut out window picture group; and--.

In **claim 18** on line 10 insert --calculated-- between the words "a" and "feature".

In **claim 19** on line 8 replace "group; and" with --group for evaluating influence of variations in the capturing environments of the cut out window picture group; and--.

In **claim 19** on line 9 insert --the calculated-- between the words "comparing" and "feature".

In **claim 19** on line 12 insert --calculated-- between the words "a" and "feature".

The amendments were made to correct minor typographical errors as well as to incorporate the limitation of evaluating the variations in the capturing environment to differentiate claims 18 and 19 from the Koike and Matsugu references relied upon by the examiner.

Response to Amendment

The amendment filed 5/18/05 has been entered in full.

Applicant's arguments, see pages 12-13, filed 5/18/05, with respect to the 103 rejections have been fully considered and are persuasive. The 103 rejections of the pending claims has been withdrawn.

Applicant's arguments filed 5/18/05 regarding the request for a withdrawal from restriction have been fully considered but they are not persuasive. Applicant recites that claim 1 is generic to claims 5, and 9 and that "upon allowance of a generic claim, applicant is entitled to consideration of claim to additional species which are written in dependent form or otherwise include *all the limitations* of an allowed generic claim as provided by 37 CFR 1.141" (emphasis added). However claims 5 and 9 do not disclose all of the limitations of claim 1 (for example evaluating the influence of variations in the capturing environments of the cut out window picture group) therefore claim 1 is not generic to claims 5 and 9 and the restriction is withheld.

Reasons for Allowance

Claims 1-4, and 11-21 are allowed.

The following is an examiner's statement of reasons for allowance: Regarding claim 1, as stated by the Applicant in the arguments, none of the prior art discloses a picture matching processing system comprising a capturing environment variation influence evaluating part fro evaluating influence of variations in the capturing environments of the cut out window picture group and a window picture selecting part

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for selecting a window picture in which the influence of variations in a capturing environment is at a predetermined level or less from among the cut out wind picture group, based on results of the evaluation of the influence of variations in the capturing environments. Claims 17-19, disclose similar limitations and thus are allowable for the same reasons as claim 1. Claims 2-4 are dependent on claim 1 and thus are allowable for the same reasons given for claim 1. Claims 11-16, 20 and 21 were allowed in a previous office action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Contact Information


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Strege whose telephone number is (571) 272-7457. The examiner can normally be reached on Monday-Friday between the hours of 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS

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KANJIBHAI PATEL
PRIMARY EXAMINER